

FEB 27 2007

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In re Application of:
Chien-Chao Huang, et al.
Application No. 10/824,854
Filed: April 15, 2004
For: METHOD OF MANUFACTURING A
MICROELECTRONIC DEVICE WITH
ELECTRODE PERTURBING SILL

DECISION ON PETITION
UNDER 37 CFR § 1.181 TO
WITHDRAW FINALITY OF
REJECTION

This is a decision on the petition filed on 20 February 2007 under 37 C.F.R. § 1.181 to Withdraw Finality included in the Office Action dated 21 November 2006.

The petition is **DENIED**.

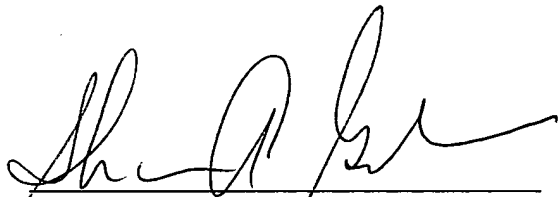
It is found the Final Rejection mailed 21 November 2006 was necessitated by applicant's amendment of the claims as set forth under the guidelines in MPEP §706.07(a). In particular, the examiner sent out a Non-Final Rejection on 04 November 2005, at that time applicant substantively amended the claims in the response filed 11 April 2006. After the amendment, the examiner did a Final Rejection mailed on 18 July 2006. Applicant argued that the Final Rejection mailed at that time was defective which forced the examiner to reconsider his rejection. The finality of that rejection was withdrawn and a second Final Rejection was mailed on 21 November 2006 in lieu of the previous final rejection of 18 July 2006.

Despite applicant's assertions, an amendment does not have to be filed between the two rejections to force finality. MPEP 706.07(a) states that a "second or any subsequent actions on the merits shall be final except where the examiner introduces a new ground of rejection that is" not "necessitated by applicant's amendment of the claims." It is enough that applicant substantively amended the claims once on 11 April 2006. The second Final Rejection is a subsequent action based on those amended claims and as discussed below, it was the amendment applicant filed that required the examiner to perform a new search and reconsider his rejection. As stated in MPEP 706.07, the rules are not meant to give the applicant the right to "amend as often as the examiner presents new references or reasons for rejection," and present practice also does not sanction

hasty, and ill-considered final rejections. However, in this case the Final Rejection issued by Examiner Dickey was not hasty or ill-considered.

Upon close review of the application, it is determined that the new art cited and the 102 of MONTGOMERY et al. which was changed to a 103 in the second Final Rejection were both needed because of applicant's substantive amendment to the claims on 11 April 2006. The new reference ABADDEER et al. and the 103 rejection deals with amended claim 1 which discloses the "patterned feature being part of a transistor and comprising at least one electrode ...situated proximate the plurality of doped regions..." Applicant particularly argues these features in their response of 11 August 2006.

For the above reasons, the finality of the Office Action dated 21 November 2006 is found to be proper. Applicant is reminded that the shortened statutory period continues to run from 21 November 2006.

A handwritten signature in black ink, appearing to read 'Sharon Gibson', is written over a horizontal line.

Sharon Gibson
Director, Technology Center 2800